



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2021-0936; FRL-9859-01-R5]

Air Plan Approval; Indiana; Opacity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Indiana State Implementation Plan (SIP), authorizing temporary alternative opacity limitations at the BP Products North America, Inc. (BP) facility in Whiting, Indiana during startup and shutdown. This proposed action is consistent with the Clean Air Act (CAA) and EPA regulations regarding emissions during these periods in the refinery sector.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2021-0936 at <https://www.regulations.gov>, or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia

submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background

On December 14, 2021, the Indiana Department of Environmental Management (IDEM) submitted a request to EPA to approve an addition to its SIP to allow BP a temporary alternative opacity limitation (TAOL) measurement for its

Whiting, Indiana facility under 326 Indiana Administrative Code (IAC) 5-1-3, a revision that is codified at 326 IAC 5-1-8 and part of the State's SIP for opacity. At 326 IAC 5-1-3(d), the rule provides the IDEM Commissioner authority to approve a TAOL where they determine it is necessary that alternate TAOL is submitted to EPA as a SIP revision.

BP's Whiting facility currently employs electrostatic precipitators (ESPs) as part of its opacity control technology for two fluidized catalytic cracking units (FCUs), FCU 500 and FCU 600, used in production. BP has demonstrated to the IDEM Commissioner that use of these ESPs during periods of startup, shutdown, or hot standby present a safety hazard from coke residues on a solid catalyst within the FCUs. To address the safety hazard, BP proposed and demonstrated the efficacy of control technology borrowed from the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units, which is found at 40 CFR part 63, subpart UUU. BP will maintain the inlet velocity to the primary internal cyclones of the FCU catalyst regenerator at or above 20 feet per second. Indiana revised 326 IAC 5-1-8 to include the NESHAP control option as a TAOL for BP's FCU 500 and FCU 600 to ease the safety concerns when operating the ESP during these nonroutine operations.

Indiana provided a demonstration of compliance with CAA 110(1), which prohibit SIP revisions from interfering with

attaining air quality standards and reasonable further progress requirements. The demonstration notes it is difficult for BP's FCU 500 and FCU 600 to meet the opacity limits in 326 IAC 5-1-8 during startup, shutdown, and hot standby¹ events with safety concerns when FCU emissions are routed through an active ESP. The demonstration notes that EPA refinery rules approved on December 1, 2015 (80 FR 75177), provide work practices for FCU startup, shutdown, and hot standby events. BP expects these events could occur a few times per year. BP provided data that shows it can meet the refinery rules work practice requirements. EPA regulations on the refinery sector will limit emissions from BP's FCU 500 and FCU 600 during periods of startup, shutdown, or hot standby.

II. Analysis of Indiana's Revision

EPA agrees that the TAOL for BP's Whiting facility follows the requirements in the 40 CFR part 63, subpart UUU, NESHAP, that this alternative technology conforms to 326 IAC 5-1-3, and that the revision to the Indiana SIP is appropriate. This opacity rule revision applies to BP's FCU 500 and FCU 600, and BP will be required to follow the same requirements contained in the NESHAP for the TAOL. Specifically, BP must maintain the inlet velocity to the primary internal cyclones of the FCUs at or above 20 feet per second during periods of startup, shutdown, or hot standby. This TAOL reflects an established option of a relevant NESHAP, which is at least as stringent as the general

¹ Hot standby as defined in the NESHAP at 40 CFR 63.1579.

opacity rule. The records and calculations specified in the source specific TAOL will be sufficient to show BP Whiting's FCUs are complying with the TAOL.

III. What Action is EPA Taking?

EPA is proposing to approve Indiana's opacity rule section 326 IAC 5-1-8 as a revision to the Indiana SIP. The rule revision provides BP's FCU 500 and FCU 600 with a TAOL consistent with the requirements of 40 CFR part 63, subpart UUU.

IV. Incorporation by Reference.

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Indiana Rule 326 IAC 5-1-8, effective December 8, 2021, as discussed in Section I of this preamble. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those

requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements.

Dated: August 9, 2022.

Debra Shore,

Regional Administrator, Region 5.